



November 30, 1999

Mr. Scott Fawcett
Legal Counsel
Open Records Division
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR99-3437

Dear Mr. Fawcett:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 129805.

The Comptroller of Public Accounts (the "comptroller") received a request for a copy of "everything that is contained in the Comptroller's file concerning" two specified entities. In response to the request, you submit to this office for review a representative sample of the records at issue.¹ You state that the comptroller has released the "ownership statement" to the requestor. You assert, however, that the submitted information is excepted from disclosure under section 552.130 and section 552.101 of the Government Code in conjunction with sections 151.027 and 171.206 of the Tax Code. We have considered the exceptions and arguments you have raised and reviewed the submitted information.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.101 excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.101 encompasses information protected by other statutes. You assert that the responsive information is made confidential by sections 151.027(a) and 171.206(1) of the Tax Code, and by Article 8817 section 7 of Vernon’s Texas Civil Statutes, respectively.

Sections 151.027 and 171.206 of the Tax Code make confidential information that is obtained or derived from taxpayer records relating to sales and use taxes and franchise taxes. Section 151.027(a) provides that, with certain exceptions, “[i]nformation in or derived from a record, report, or other instrument required to be furnished under this chapter is confidential and not open to public inspection.” Section 171.206(1) provides for the confidentiality of “information that is obtained from a record or other instrument that is required under this Chapter to be filed with the comptroller.” Article 8817² section 7 of Vernon’s Texas Civil Statutes provides that “[a]ll information derived from books, records, reports, and applications required to be made available under this chapter to the Comptroller or the Attorney General is confidential unless specifically designated a public record.” We have reviewed the information submitted and conclude that it must be withheld from disclosure based on section 552.101 in conjunction with the above-referenced statutory provisions.

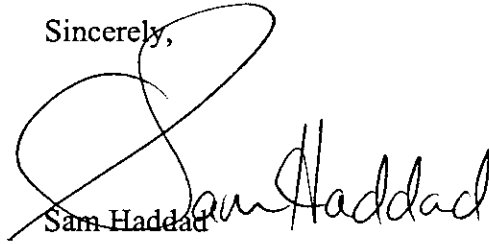
Section 552.130(a)(1) of the Government Code requires that the comptroller withhold “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.” Additionally, section 552.130(a)(2) requires the withholding of information relating to “a motor vehicle title or registration issued by an agency of this state.” We agree that to the extent the submitted records contain driver’s license numbers the information must be withheld from the public pursuant to section 552.130(a) of the Government Code.

Finally, we note that federal law may prohibit disclosure of the social security numbers included within the submitted records. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with 1990 amendments to the federal Social Security Act, § 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994). Section 552.353 of the Public Information Act imposes criminal penalties for the release of confidential information. *See also* Gov’t Code § 552.352 (distribution of confidential information is criminal offense).

²House Bill 3155, enacted by Act of May 10, 1999, 76th Leg., R.S., ch.388, § 1, 1999 Tex. Sess. Law Serv. 1431, 2414 (Vernon) (to be codified at Occupations Code § 2153.101).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



~~Sam Haddad~~
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 129805

Encl.: Submitted documents

cc: Mr. Stephen Fenoglio
Attorney and Counselor
3660 Stone Ridge Road, Suite B-102
Austin, Texas 78746-7759
(w/o enclosures)